

ORDER

UNDER REGULATION 11 OF SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003, READ WITH SECTION 11 AND 11B OF SEBI ACT, 1992.

AGAINST M/S INFOQUEST SOFTWARE EXPORTS LTD. AND ITS DIRECTORS, SHRI SANJAY JHALANI, SHRI SHAILENDRA JHALANI AND SHRI SUBHASH KRISHNA CHITALE.

1.0 BACKGROUND

1.1 M/s Infoquest Software Exports Ltd. (hereinafter referred to as "ISEL") came out with a public issue of 43,18,800 equity shares of Rs. 10/- each, for cash at par, aggregating to Rs. 431.88 lacs. The public issue opened on April 15, 1996 and closed on April 18, 1996. The shares of the company are listed at the stock exchanges at Bombay, Ahmedabad, Jaipur and Madhya Pradesh stock exchanges.

1.2 SEBI had received complaints from investors stating that the share prices of M/s Infoquest Software Exports Ltd. (ISEL) were rigged and that the registrar had wrongly rejected the valid applications.

1.3 Chairman SEBI, vide order dated June 28, 1996, ordered investigations into the alleged irregularities in the public issue of ISEL. Accordingly, investigations were conducted into the said irregularities in the public issue and the role of the company, its promoters/directors, a group of financiers and brokers was examined.

2.0 SHOW CAUSE NOTICE

2.1 During the course of the investigations, information was gathered from various investors as well as brokers, promoters/directors of the company, the registrars, merchant bankers, financiers etc. Based on the findings of the investigation, a show cause notice dated June 18, 2003 was issued to ISEL and its directors, namely Shri Sanjay Jhalani, Shri Shailendra Jhalani and Shri Subhash Krishna Chitale, whereby violations of Regulation 3 and clause (a) and (e) of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as "FUTP Regulations") were alleged against them. Vide the said notice, they were advised to show cause as to why appropriate directions should not be passed against them, under Regulation 11 & 12 of FUTP Regulations, read with Section 11 and 11B of SEBI Act, 1992.

3.0 REPLY TO THE SHOW CAUSE NOTICE

3.1 A reply dated July 31, 2003 was received from ISEL, in response to the above show cause notice. In their reply, inter alia, they have made the following submissions :

3.1.1 They have submitted that Shri Shailendra Jhalani and Shri Subhash Krishna Chitale had ceased to be the directors of the company 3 ½ years and 6 years back respectively.

3.1.2 They have referred to the adjudication proceedings initiated by SEBI vide order dated August 14, 1998, in respect of the violation of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1994. It was stated that the adjudicating officer had discharged these proceedings subsequently. Hence, they have challenged the validity of the current proceedings, contemplated under the Show Cause Notice dated June 18, 2003. According to them, the current show cause notice suffered from gross delay, and the same was untenable since it was based on the report of the Adjudicating Officer, which had already been adjudicated, culminating in the order of Adjudicating Officer dated June 25, 2001.

3.1.3 They have referred to the summons issued to them, by SEBI, in June, 1997, regarding investigations into buying, selling and dealing in the shares of ISEL. They are of the view that the investigation proceedings initiated in June, 1997, resulted in the aforesaid adjudication order dated June 25, 2001. Hence, they have submitted that the re-initiation of proceedings in June 2003 reveals ulterior motive on the part of SEBI against the company and its directors. They also mentioned that they could not understand as to why the current show cause notice relied on the investigation report prepared on the basis of the statements of the same persons, as recorded by the earlier investigating officer, in the year 1997. It was also stated that they found it intriguing as to why two different reports on the same cause of actions had been prepared by SEBI, that too after a period of six years from the previous investigation.

3.1.4 They have denied the observations / conclusions made in the investigation report, forming part of the Show Cause Notice. According to them, the investigation report was not dated or signed and no designation of the official, who had prepared the same, was mentioned. They have also questioned the authority of the investigation report.

3.1.5 Regarding the allegations made in the show cause notice, they have submitted that the basis of allotment of the IPO and the same being oversubscribed by 20.81 times were approved by MP Stock Exchange in the presence of SEBI nominee, Mr. B.M. Datey, on 18.5.1996. It was stated that the basis of allotment was duly signed by the company, Merchant Banker and Registrar and the same was approved by Madhya Pradesh Stock Exchange in the presence of its SEBI nominee. They also claimed that no complaint regarding the basis of allotment was received from anyone, including SEBI.

3.1.6 They also submitted that the alleged violations of Regulation 3, 4 (a) and 4(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 was without basis and devoid of details. They have submitted that neither the company nor its directors had done any trading, post listing, in the company's scrip. They also submitted that the Show Cause Notice does not allege about the directors role in any manipulation. According to them, the allegation regarding involvement of the company and its directors in manipulation of the public issue is not substantiated with facts and figures.

3.1.7 They also submitted that directors and the entity of ISEL are separate and independent and that the names of Mr. Shailendra Jhalani and Mr. Subhash Krishna Chitale had been included without any basis.

3.1.8 It was submitted by ISEL that the IPO and the various processes thereof, from filing of prospectus till listing of shares, had been done with requisite permissions, consents and approvals of the statutory authorities such as ROC, SEBI, Exchanges, etc. It was also stated that no irregularity or lapse was involved during the process and that the company had not cheated anyone. It was further stated that none of the directors had been allotted any shares, although the issue was oversubscribed. ISEL, it was submitted, had not bought / sold a single share of ISEL, post-listing. It was also stated that neither the company nor the directors induced anyone to enter into any contract relating to company's scrip. Therefore, ISEL submitted, that the allegation of allotment done in fraudulent manner is incorrect and refuted.

3.1.9 They have denied having taken any assistance from any group of financiers and/or brokers. It was submitted that the company had received about 12,594 applications, for about 4,66,32,900 shares, from many cities. They also stated that there were no complaints regarding the company and/ or its Directors having obtained assistance of a group of financiers and/or brokers at the relevant time. It was also submitted that the company had no justification to go to any financier, as the public issue was for about Rs.3 crores only. The directors denied the charge that they were instrumental in cornering of shares by a group of persons. They also stated that such allegation was not borne out from the statements of persons recorded by the investigating officer.

3.1.10 ISEL and its directors also denied that they were instrumental in creation of artificial shortage of floating stock and manipulating the market. They also submitted that prices of the shares was the outcome of a host of factors, forces and influences constantly, which were fundamental, technical, market related, etc. They also stated that post listing trading volumes were large and that neither ISEL nor its directors had control over the market forces and they were not concerned with the price discovery of the scrip in the market. Although it was admitted that BSE had raised margins on ISEL's scrip on different occasions, BSE had never advised them about the creation of artificial shortage of floating stock or any manipulation in the scrip. In view of their submissions, denials and bonafides, they stated that there was no case for passing the directions as contemplated under Regulation 11 & 12 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 etc.

3.1.11 An opportunity of hearing was granted before me on August 18, 2003, which was communicated to ISEL and its directors vide the letter dated August 05, 2003, sent by speed post. No one appeared on behalf of the company or its directors.

4.0 FINDINGS

4.1 I have carefully examined the investigation report, the Show Cause Notice issued to ISEL and its Directors, and also their reply. My findings with respect to the alleged irregularities in the public issue are as follows :

4.1.1 On an examination of the top allottees of the shares of ISEL, I find that the top 100 applicants have applied for 3,08,10,000 equity shares, amounting to Rs.15,40,50,000, which is nearly 50% of the total subscription collected. On further scrutiny of the list of top 100 applicants, I have seen that 80 applications were made from 8 addresses, the details of which are given below:

Sr No	Address	No. of Applicants	Total no. of Shares Applied for
1	C/o Khadwala, 8/B Parisima Complex, C.G. Road, Navrangpura, Ahmedabad	7	72,00,000
2	C/o Rajesh N. Jjuhaveri, Jhaveri Building, Opp. Bank of India, Manek Chowk, Ahmedabad	17	45,00,000
3	C/o 5 B, Mitra Mandal Society, Opp. Darpan Usmanpura, Ahmedabad	11	21,40,000
4	C/o Suresh Kumar, 7 Sunrise Park, Row House, Opp. Drive In Cinema, Thaltej, Ahmedabad	10	37,00,000
5	C/o B/42, Mehta House, Off Link Road, Andheri (W), Bombay 400 053	9	29,00,000
6	C/o 91, M.Karve Road, 1 Pearl Mansion (N), Bombay 400 020	13	40,00,000
7	C/o Secretarial Dept. Empire House, S.B. Marg, Lower Parel, Bombay 400 009	11	22,00,000
8	C/o 260, Sant Tukaram Road, Carnac Bunder, Bombay 400 009.	2	12,00,000
	TOTAL	80	2,78,40,000

4.1.2 All the above allottees, I find, had applied in the public issue of ISEL, on the basis of the pre-meditated arrangement, entered between them, acting as financiers, and persons acting on behalf of ISEL. The applications made by the above allottees amounted to 50% of the total subscription received by the issue, which led to the issue being over-subscribed to the extent of 10 times. This level of oversubscription in turn created a false and misleading impression on the investors, leading to a price rise in the scrip, post listing. Investigations revealed that, the scrip was listed on BSE and ASE at around Rs.50/- . The scrip went up to Rs.64/- in two trading days and fell to Rs.46/- after around 15 trading days. Due to this volatility in price BSE has imposed a special margin of Rs.15/- on June 18, 1996, which was subsequently revised to Rs. 40 on 28.06.96..

4.2 The modus operandi of the fraud employed in the public issue of ISEL and the subsequent over subscription is described in the following paragraphs.

4.2.1 As mentioned above, several financiers had applied in the public issue of ISEL, on the basis of pre-meditated arrangement, between themselves and persons acting on behalf of the company. Most of these financiers were approached by one Shri D. K Shah, acting on behalf of Arihant Finance Corporation of Ahmedabad.

4.2.2 Shri D.K.Shah alias Munna was the negotiator between the financiers and the directors of the company. He had deposed before the investigating officials and confirmed that he was involved in the financing of the public issue of ISEL. He also explained the methodology adopted by companies/financiers in garnering subscription for their public issues. He had submitted that the practice in such cases was to first enter into an agreement with "clients" who approach them for financing of their issues. The interest rate, to be paid to the financiers, was decided right at the beginning and the financiers were paid interest at a flat rate, from the date of the issue till date of allotment. The shares allotted to the financiers, in lieu of the applications made by them, were subject to buy-back by the company.

4.2.3 In the said case, Shri Shah had confirmed that he had financed the public issue of ISEL to the extent of Rs 9 Crores. He also confirmed that the financing of the issue was done by him, at the behest of Divya Jyoti Securities Ltd. The applications for financing of the issue were made by Shri D.K.Dalal, Shri Vinod Kumar Jatia, Thakkar Family, Vohra Family, Shah Family, Modi Family and Acharya family. In addition, Shri D K Shah was himself able to garner allotment worth Rs 57 lacs, for which he had received interest at the rate of 36%.

4.2.4 Shri D K Shah was specifically asked regarding the manner of obtaining pre-dated stock invests, used by most of the financiers, who had applied in the public issue after its closure. Shri Shah had stated that the stock invests are arranged by the financiers themselves. He also stated that the applications made by the financiers were handed over to the representatives of M/s Divya Jyoti Securities Ltd. And that he was unaware of the manner in which the applications were accepted after the closure of the issue.

4.2.5 As submitted by Shri D K Shah, the public issue of ISEL was financed by him, to the extent of Rs. 9 crores, at the behest of M/s Divya Jyoti Securities Ltd. In this regard, I find that a group of persons, such as Shri Deep Trivedi, Director, Divya Jyoti Securities Ltd., Shri D.K. Shah etc., in connivance with the promoters of the issuer company, manipulated the public issue allotment of ISEL. The nexus between Shri Deep Trivedi/Divya Jyoti Securities Ltd. and Shri Sanjay Jhalani, Promoter-Director of ISEL has been inferred on the basis of circumstantial evidence, as Shri Deep Trivedi had failed to produce relevant documents before SEBI, in spite of several summons issued to them. The inference regarding the relationship between M/s Divya Jyoti Securities Ltd. and ISEL/Sanjay Jhalani is drawn on the basis of the following:-

- i. The bank account of M/s Top Cassettes, in which Shri Sanjay Jalani, the director of ISEL is one of the Directors, maintained at Dena Bank, Indore, was introduced by M/s Divya Jyoti Industries Ltd., a group concern of Divya Jyoti Securities Ltd.
- ii. Perusal of account opening forms of Top Cassettes and Divya Jyoti Securities Ltd., maintained at Dena Bank, Navlakha Branch, reveals that the account number of Top Cassettes is 2120 and that of Divya Jyoti Securities Ltd. is 2121. The aforesaid Bank accounts were opened on the same day and introduced by the same person. The handwriting on the Bank account opening form, especially in the address and the telephone column, appears to be the same for both the accounts. Telephone number 434506 appears in both the account opening forms and both the accounts have been verified by the same officer of the Bank, which indicate that the account was opened at the same point of time.
- iii. The office of Top Cassettes belongs to Deep Trivedi, Director Divya Jyoti Securities Ltd. and the telephone number of Top Cassettes and Divya Jyoti Securities Ltd., is common.
- iv. Shri Rajesh Jhaveri, another financier in ISEL, had stated on oath that an amount of Rs.62.21lacs was paid by him, to Shri D.K. Shah, for the services rendered by Shri Shah, towards financing the public issue of ISEL. As submitted by Shri Jhaveri, this amount was paid by him, on behalf of Deep Trivedi. The said amount was later received by him, by way of two drafts issued by Dena Bank, D.D. No. 805203, dated May 31, 1996 and D.D. No. 805238, dated June 5, 1996, amounting to Rs.30 lacs each. (The balance was yet to be received) The DD No 805203 was issued to the debit of Divya Jyoti Securities Ltd and DD No 805238 was issued to the debit of account held by Top Cassettes Ltd.
- v. There is a payment of Rs 30, 00,000/- made by Divya Jyoti Securities Ltd towards the purchase of Infoquest shares from Top Cassettes Ltd.
- vi. Perusal of account of Top Cassettes maintained at Dena Bank, Navlakha Chouraha it appears that Top Cassettes have given financial assistance to Divya Jyoti Industries Ltd., who in turn has passed on to Divya Jyoti Securities Ltd. Shri Deep Trivedi of Divya Jyoti Securities Ltd. has used this money for buying the shares of ISEL and Top Cassettes Ltd.

The above observations lead me to believe that there was a connection between M/s Divya Jyoti Securities Ltd. and Shri Sanjay Jhalani/ISEL.

4.2.6 I have also noted that ISEL had made payments to Divya Jyoti Securities Ltd. on April 5, and April 9, 1996 i.e just prior to the opening of the public issue of the company. The perusal of records of ISEL reveal that the company has given money to Divya Jyoti Industries Ltd., to the extent of Rs. 1,61,30,000, from May 22, 1996 to June 10, 1996. The money was in turn given to Divya Jyoti Securities Ltd., who, in turn, utilized this money for purchases of ISEL shares, during the said period, in Grey Market as well as in Secondary Market.

4.2.7 Shri Sanjay Jhalani, director, ISEL, was asked to explain the payments made by ISEL to Divya Jyoti Securities, on various date, immediately before and after the public issue of ISEL. In reply, Shri Sanjay Jhalani had stated that the payments were made for purchase of shares from secondary market for a good investment opportunity, after taking prior consent from the company, as he is

too busy with the new project and has no time for investing the funds which are lying idle. Shri Sanjay Jalani denied knowing anything about Shri Deep Trivedi of Divya Jyoti Securities Ltd. "operating" in the market.

4.2.8 Shri Jalani was also asked during the investigation, whether he was aware that the top 100 applicants in the public issue of ISEL from Mumbai and Ahmedabad, (namely Shah family, Jatia family Acharya family, Dalal family, Thakkar family, Mehta family) had applied on the basis of financing arrangement with Shri Munna (D.K. Shah) of Ahmedabad and that the aforesaid entities have applied after the closure of the issue, through pre-dated stock invests. In reply, Shri Jalani has stated that none of the Promoters of ISEL knew the above applicants and they have never dealt with them.

4.2.9 Shri Jalani was asked to produce information in respect to ledger, cash book, Bank book and dealings in the shares of ISEL under summons. However, the same was not produced. Summons were also issued to M/s Top Cassettes, having Shri Sanjay Jhalani as Director, as it was observed during investigations that some of the monies paid to M/s Divya Jyoti securities Ltd. were from the account of Top cassettes. The summons issued to Top Cassettes also was unattended.

4.2.10 On perusal of the account of Top Cassettes, a company on which Shri Sanjay Jhalani is a Director, maintained at Dena Bank, Navlakha Chouraha, it appears that Top Cassettes had given financial assistance to Divya Jyoti Industries Ltd., who, in turn, had passed on to Divya Jyoti Securities Ltd. Shri Deep Trivedi of Divya Jyoti Securities Ltd. had used this money for buying the shares of Infoquest Software Exports Ltd. and Top Cassettes Ltd. In reply to the same, Shri Sanjay Jalani has stated that the aforesaid transfer of funds was merely a short term lending deal between Infoquest and Divya Jyoti Industries Ltd.

4.2.11 I find that Divya Jyoti Securities had dealt actively in the shares of ISEL, both in the grey market, before listing of the shares and also in the secondary market. A lot of their trading in ISEL's shares was done through Dev Stock Brokings and Rajesh N. Jhaveri.

4.2.12 In order to ascertain the activities of M/s Divya Jyoti Securities Ltd, with respect to the trading in the shares of ISEL, summons were issued to Shri Deep Trivedi, the Director of Divya Jyoti Securities Ltd. on March 25, 1997. Shri Deep Trivedi did not appear and in turn a letter dated March 22, 1997 was received on March 25, 1997 stating that Shri Deep Trivedi is not available in town and another date may be fixed as per SEBI's convenience. Subsequently, there was no response from Deep Trivedi and finally SEBI sent another summon to appear in person on May 26, 1997 alongwith ledger, cash book, Bank book and transactions entered on his behalf and his clients. The second summon was also not attended by Shri Deep Trivedi and no correspondence in this regard is being made. A final summon was issued by SEBI to Deep Trivedi to appear on June 17, 1997 along with the aforesaid documents.

4.2.13 On perusal of the bank records, I find that Divya Jyoti Securities had made payments to Rajesh N. Jhaveri, vide demand draft no.805203, amounting to Rs.30,00,000/- and a demand draft no.805238 (issued to the debit of M/s Top Cassettes Ltd) dated June 5, 1996 for Rs.30,00,000/- drawn on Dena Bank, Navlakha, Chouraha, Indore Branch. The details were obtained by SEBI from Dena Bank, Navlaka Chauraha, Indore Branch, where ISEL and its group companies held their accounts. This fact was also confirmed by Shri Rajesh Jhaveri, in his statement, wherein he had submitted that the two demand drafts were received by him, as repayment of the amounts paid by him to Shri D K Shah, as payment for the services rendered by Shri Shah for financing the issue of ISEL. Thus, I find that notwithstanding the failure of M/s Divya Jyoti securities Ltd. to submit information, it is clear that payments were made by them to Shri Rajesh Jhaveri, who had paid Shri D K Shah for financing the issue of ISEL.

4.3 As regards the role of the financiers and the modus operandi adopted by Shri D K Shah in garnering subscription for the issue, I find that :

4.3.1 Shri Rajesh N. Jhaveri, one of the financiers, had submitted during the investigation that his family members and his close friends had applied in the public issue of Infoquest Software Exports Ltd. All the shares allotted to family members and associates of Rajesh Jhaveri were sold in the secondary market, to M/s GLFL Securities Ltd.

4.3.2 Another financier, Shri Kharakia, had stated that he was in the business of financing which included financing for the applications for the public issues. In the case of ISEL also, he submitted, that the applications were put in, as was done by him in the normal course of his business. He admitted that he and his family members had applied in the public issue of ISEL. I find that he had submitted before the investigating officials that more details relating to the dealings in the shares of ISEL shall be made available by February 13, 1997, the reason being, his accountant was out of station. However, I find that the only details submitted by him was that he was allotted 2,66,900 shares and that the same were sold.

4.3.3 In order to ascertain the full facts, the bank records of State Bank of Saurashtra, Osmanpura Branch, Ahmedabad and State Bank of Hyderabad, Mani Nagar Branch, from where the stock invests used by Shri Kharakia and Shri Jhaveri were issued, were inspected. It was seen that, Shri Suresh Kumar Kharakia (Meridian Finance Pvt. Ltd.) had bank accounts at both these branches and all the stock invests have been issued from these accounts. It was seen that,

? All the seventeen applications made by Shri Rajesh Jhaveri and the persons associated with him had been made through stock invests issued from the account of Shri Suresh Kumar.

? On perusal of the records of State Bank of Saurashtra, it has been found that all the stock invests have been purchased on and after April 23, 1996 (after the closure of the public issue on April 18, 1996). Thus, these stock invests were predated. On perusal of the records of State Bank of Hyderabad, it was found that the Bank was not keeping up to date records of the "stock invest issue register". However, the stock invests were found to have been purchased on April 18, 1996.

4.3.4 Shri V K Jatia and his family members were another group of investors/financiers in the public issue of ISEL. Shri Jatia is also the promoter/director of M/s Supreme Holdings, a company listed at BSE. It was stated during the investigation, by Shri Purushottam Ladha, the authorized representative of Shri Jatia, that one Shri Dilip Dalal, acting on behalf of M/s B K Finance, had approached Shri Jatia around May 10, 1996, for financing the public issue of ISEL. An agreement to this effect was signed between Shri Jatia and his family members, and Arihant Finance Corporation, I note from the terms of agreement and the statement of Shri Purushotham Ladha that Rs.70 lacs was to be given as a loan @ 20% p.a. for 15 days, by Shri Jatia and his family members and the interest earned on the stock invests was to be retained by the investors. I also find that Shri. Jatia had admitted to the investigating officials that he and his family members had made applications amounting to Rs 70 lacs, in the public issue of ISEL. It was found that the applications were made through stock invests which were drawn on Bank of India, Cumballa Hill Branch.

4.3.5.1I have also found that Shri V.K. Jatia and his family members had signed the account opening forms of this bank and handed it over to Shri Dilip Dalal, who managed to get the stock invest issued from the said Bank. I have also noted that the stock invests, used for making applications in the issue were dated to April 18, 1996 i.e. the last day for making applications in the issue, though the accounts from where the stock invests were purchased were opened only on May 10, 1996. Thus, pre-dated stock invests were used to make applications after the closure of the issue.

4.3.5.2 It was seen that on allotment, each applicant received 6,500 shares and an amount of Rs.65,000/- was deducted from the stock invests. The details of the repayment of the interest and the principal are given as under :

Applicant's Name	Application Amount (Rs.)	Allotment Amount (Rs.)	Principal Repayment (Rs.)	Interest Repayment (Rs.)
Subhkaran Jatia	10,00,000	65,000	65,000	8,219
Rampiyari Devi Jatia	10,00,000	65,000	65,000	8,219
Shashi Jatia	10,00,000	65,000	65,000	8,219
Archana Jatia	10,00,000	65,000	65,000	8,219
Vinod Kumar Jatia	10,00,000	65,000	65,000	8,219
Nita Jatia	10,00,000	65,000	65,000	8,219
Smita Jatia	10,00,000	65,000	65,000	8,219

4.3.5.3The principal of Rs.65,000/- per application was found to have been repaid by M/s B.K. Finance, from their account held at the Madhavpura Mercantile Co-op Bank Ltd. vide cheques no.949379 to 949385 on May 22, 1996. It was also found that, the interest of Rs.8,219/- per application was paid by M/s B.K. Finance, from their account at Madhavpura Mercantile Co op. Bank Ltd., vide cheques no.949362 to 949368 on May 15, 1996.

4.3.5.4I find that, subsequently, on May 14, 1996, one Shri Farookh Pavri of Mumbai had approached Shri V.K. Jatia for a further financing of Rs.50 lacs on behalf of M/s Arihant Finance Corporation. This was admitted by Shri Jatia also. The terms of financing were such that five joint applications of Rs.10 lacs would be made and the first applicant in each application would be person/s related to Arihant Finance Corporation and the second applicant would be the family members of Shri V.K. Jatia. It was seen that in order to ensure the repayment of loan, the address of correspondence was given as the address of Shri V.K. Jatia. The details of these joint applications are as follows:

- a. Hemendra Shah
Nita Jhatia
- b. Jignesh Shah
Smita Jhatia
- c. Vishvesh Shah
Shashi Jhatia
- d. Sangeeta Shah
Vinod Kumar Jhatia
- e. Bharat Shah
Archana Jatia

4.3.5.5These applications were also made through stock invests which were purchased from Bank of India, Cumballa Hill Branch. It was seen that the stock invests were issued from the bank accounts of the first applicants, which were opened in the last week of April 1996 i.e after the issue had closed. Thus, even in this case, pre-dated stock invests were used to make applications after the closure of the issue. It was seen that for these five applications, Shri Vinod Kumar Jatia and their family members had invested Rs.9,35,000/- per application. It was seen that the balance of Rs.65,000/- was put in by the Arihant Finance Corporation and the payment of Rs. 65,000 was found to have been made by M/s Mani Investments, of which Farookh Pavri is the Partner, on behalf of Arihant Finance Corporation. This was submitted by Shri Pavri in his statements, during the investigation.. Shri Jatia had also stated that they acted on the advise of their broker, Shri Dilip Dalal, who had said that he could manage to get the pre dated stock invests from Bank of India, Cumballa Hill Branch. Shri Jatia also confirmed that Shri D K Shah was acting on behalf of M/s Arihant Finance Corporation.

4.3.5.6As already stated above, in both sets of applications, the stock invests that accompanied the applications are found to have been purchased from accounts opened only after the closure of the issue. This shows that the intention behind making applications, by Shri Jatia and his family members, although stated to be for financing purposes, was not bonafide. Otherwise, there was no need for the predated stock invests. They could have made the applications before the closure of the issue itself.

4.3.5.7In view of the above, I find that the applicants had been aware of the allotment at the time they made the applications in the public issue. All the stocks invests used for making applications were pre dated. Further, I find that, on receipt of the principal and interest amounts from the financiers, the applicants signed the blank transfer deeds and handed over the share certificates allotted to them, along with the transfer deeds, to Shri Dilip Dalal and Shri Farook Pavri, respectively.

4.3.6 Similarly, Shri Alok Jain, authorized representative of Shri Vijay Kumar Jatia, another financier in the public issue of ISEL, repeated the same story, as told to the investigating officials by Shri Purushotam Ladha, authorized representative of Shri Vinod Jatia. It was stated that Shri Jatia was approached by one Shri Sunil Dalal, on behalf of Arihant Finance Corporation, to finance the public issue of ISEL to the tune of Rs. 80 lacs. Accordingly, Shri Jatia had financed the issue by applying for 16 lac shares, through stock invest of Rs.80 lacs issued by The United Western Bank Ltd. , Lower Parel Branch. The stock invest was issued by the Bank, on May 13, 1996 i.e. after the closure of the issue. However, the date on the stock invest was April 15, 1996. Thus, the stock invest was pre dated. The application form and the stock invest was handed over to Shri Sunil Dalal. Subsequently, Shri Jatia was allotted 52,100 shares and thus Rs.5,21,000/- was debited from his account. Shri Jatia received the interest of Rs.52,602/- vide cheque no.949391 dated May 13, 1996 and the principal of Rs.5,21,000/- vide cheque no. 949379 dated May 22, 1996. These cheques were paid from the account of M/s B.K. Finance drawn on Madhavpura Mercantile Co-op Bank Ltd., Mandvi Branch, Bombay. I find Shri Alok Jain to have stated that no shares had ever been received by Shri Jatia, in response to the applications made by him.

4.3.7.1In another case of financing of the issue, Shri Ramesh Shah, one of the partners of M/s R.R. Investments, also applied in the issue of ISEL. I find that Shri Ramesh Shah , had admitted to the investigating officials, that his family members along with the family members of Rajesh Mehta, another partner of R.R. Investments had applied in the public issue of M/s Infoquest Software Exports Ltd. The names of the applicants belonging to this group were :-

- a. Deepal Mehta
- b. Rajesh Mehta
- c. Pina Shah
- d. Kaushal Mehta
- e. Kashmira Mehta
- f. Ramesh Shah
- g. Deepa Mehta
- h. Vipul Mehta

4.3.7.2I find that Shri Ramesh Shah was approached by a broker, Shri Sunil Dalal, to arrange finance of Rs.75 lacs, for Arihant Finance Corporation of Ahmedabad, in the public issue of ISEL. As in all of the above cases, the broker had approached him after the closure of the issue, i.e., sometime in the first week of May. The deal in this case is also identical to the case of Jatia and his family members. The loan agreement was signed between the applicants and Arihant Finance Corporation. As per the agreement, Arihant Finance Corporation (borrower) was to pay an interest of Rs.25,753/- for 8 days to Deepa Mehta for the loan amount of Rs.50 lacs and an interest of Rs.12,876/- for 8 days to Vipul Mehta for the loan amount of Rs.25 lacs. (Two applications in the name of Deepa Mehta and Vipul Mehta for Rs.50 lacs and Rs. 25 lacs respectively were made earlier). In this case, stock invests were drawn on the United Western Bank, Lower Parel Branch, on May 15, 1996. However, the stock invests were pre-dated to April 15, 1996. The repayment of the principal sum as well as interest, I find, was done by B.K. Finance from its account of Madhavpura Mercantile Co op. Bank Ltd. on May 22, 1996.

4.3.7.3Shri Sunil Dalal again approached Shri Ramesh Shah around first week of May, 1996, asking for a further finance of Rs.60 lacs, on behalf of the same borrower, for the same purpose. Sunil Dalal is also said to have requested Shri Ramesh Shah to give a loan of Rs.10 lacs to Shri Vishnu Patel. Shri Ramesh Shah, I find, has stated that he had no knowledge as to why and where this money was to be utilised. It was found that Shri Vishnu Patel was also one of the applicants in the issue, having put in Rs.10 lacs in the public issue through stock invest, purchased from the same branch and in the same serial order as that of the family members of Shri Ramesh Shah and Shri Rajesh Mehta. I also find that the family members of Ramesh Shah and Rajesh Mehta had signed the account opening forms of Bank of India and handed it to the broker, Shri Sunil Dalal, who further managed to get the pre-dated stock invests issued from Bank of India, Cumballa Hill Branch.

4.3.7.4The details of the repayment of the interest and the principal by this group is given as under :

Applicant's Name	Application Amount (Rs.)	Allotment Amount (Rs.)	Principal Repayment (Rs.)	Interest Repayment (Rs.)
Deepal Mehta	10,00,000	65,000	65,000	9,589
Rajesh Mehta	10,00,000	65,000	65,000	9,589
Ramesh Shah	10,00,000	65,000	65,000	9,589
Kaushal Mehta	10,00,000	65,000	65,000	9,589
Kashmira Mehta	10,00,000	65,000	65,000	9,589
Pina Shah	10,00,000	65,000	65,000	9,589

4.3.7.5The principal of Rs.65,000/- per application, along with the interest payable, was found to have been repaid by M/s B.K.Finance, from the account of The Madhavpura Mercantile Co-op. Bank Ltd.

4.3.7.6In all these cases, the applicants signed the blank transfer deeds and handed over the share certificates and the transfer deeds to the broker, Sunil Dalal, on receipt of the principal and interest repayment from the financiers. The reason for purchase of stock invests from Bank of India, Cumballa Hill Branch, as stated by Shri Ramesh Shah, was that Bank of Rajasthan, at which they

had an account, would not have issued predated stock invests, and the broker, Sunil Dalal had said that he could arrange to get the predated stock invests from Bank of India. He further stated that they had only signed the account opening forms and issued six cheques for Rs. 10 lacs each and that they were not aware of any details as to how the pre-dated stock invests were issued or used in making applications.

4.3.8.1I find that Shri Farookh. Pavri and persons associated with him have also applied in the said public issue, on behalf of M/s Arihant Finance Corporation of Ahmedabad. In his statement, Shri F. Pavri had stated that he was approached by one Shri D.K. Shah, alias Munna of Arihant Finance Corporation, during the first week of May 1996 for arranging a finance of Rs.100 lacs, to be used for applying in the public issue of ISEL. An agreement was entered into, between Mani Investments, the partnership firm of Shri Pavri and Arihant Finance Corporation. Shri F.Pavri and the persons associated with him then put in 8 applications of Rs.10 lacs each. The names of these applicants, who are friends and relatives of Shri Pavri are as follows:

- a. Sangeeta Shah
- b. Darshana Shah
- c. Tejas Shah
- d. Sanjay Balkiwal
- e. Nazneen Ravji
- f. Delnaz Ravji
- g. Shirin Pavri
- h. Farookh Pavri

4.3.8.2 I find that the agreements entered into, between Mani Investments and Arihant Finance Corporation, were back dated to April 15, 1996. There were two agreements of Rs.20 lacs and Rs.60 lacs, amounting to Rs.80 lacs. As per the agreement, advance interest was to be paid to Mani Investments @ 30% p.a. for a period of 46 days. The interest earned on the stock invests was to be retained by the applicants.

4.3.8.3 In addition, Shri F. Pavri also syndicated a further loan of Rs.19 lacs on behalf of Arihant Finance Corporation. In this case, there were 4 applications, the details of which are given below:

Sr. No.	Name of the Applicant	Application Amount (Rs.)
1	Radheshyam Chokhani	10,00,000
2	Kishore Chokhani	5,00,000
3	Mona Jhaveri	2,00,000
4	Sona Jhaveri	2,00,000

4.3.8.4For the above mentioned loan of Rs.19 lacs, the agreement was entered into between Arihant Finance Corporation and the individual applicants.

4.3.8.5 Further, I find that Rs.20 lacs was financed to Shri Muthu Krishnan and Shri Franco Fernandes, by Farookh Pavri, for their application of Rs.10 lacs each, in the public issue of ISEL. I find that the loan of Rs.10 lacs each given to the two applicants was @ 24% p.a. for 30 days.

4.3.8.6 I also find that the stock invests of all the above mentioned 14 applicants, except that of Shri Radheshyam Chokhani, were alsopurchased from Bank of India, Cumballa Hill Branch, Bombay. Shri F. Pavri and his friends & relatives were already having accounts when they approached the bank in the 2nd week of May, 1996. Shri F. Pavri introduced the accounts of Kishore Chokhani, Mona Jhaveri, Sona Jhaveri, Muthu Krishnan and Franco Fernandes. The stock invest of Shri Radheshyam Chokhani was purchased from United Western Bank, Dadar Branch, Mumbai. Shri F. Pavri stated that the stock invests and duly filled application forms were handed over to Mr. D.K. Shah of Arihant Finance Corporation in the second week of May 1996.

4.3.8.7 I also find that the loan repayment on the allotment of the applications worth Rs.149 lacs (Rs.80 lacs + Rs.19lacs + Rs 50 lacs) was paid by a cheque of Rs.9,04,000/- and another cheque of Rs.65,000/- from the account of B.K. Finance form Madhavpura Mercantile Coop. Bank Ltd., Mandvi Branch, Bombay. Shri Pavri had stated that the above payment was inclusive of some other payment which Arihant Finance Corporation owed to him. The interest on this loan was paid separately, on dates prior to the date of repayment of principal amount, by cheques of Rs.2,46,575/- and Rs.60,000/- and Rs.75,000/- , issued from the same account of B.K. Finance. I find that this money was subsequently paid by Shri Pavri to the financiers.

4.3.8.8 Apart from the above, Shri F. Pavri, I find, had syndicated a loan of Rs.50 lacs from the members of the Jatia family, details of which are already given at para 4.3.5.4 and 4.3.5.5 above.

4.3.9.1 I find that the brokers, Shri Sunil Dalal and his brother Shri Dilip Dalal had applied in the public issue of ISEL. Shri Sunil Dalal, I find, had admitted during the investigation that he and his brother did not apply as genuine investors. They had said that they were approached by Shri D.K. Shah alias Munna of Arihant Finance Corporation, who was a big financier of public issues, to finance the public issue of Infoquest. Shri Dilip Dalal and Shri Sunil Dalal had put in applications for 6 lacs shares each. These applications were applied through stock invests of Rs.30 lacs each, which were issued from United Western Bank Ltd., Lower Parel Branch, Bombay. These stock invests were also pre-dated, to a date before the closure of the issue. As per the agreement between the two applicants and Arihant Finance Corporation, an interest at the rate of 15% p.a. for 30 days was to be paid. The arrangement for the loan also was similar as in the other cases. The interest on the stock invest application was to be retained by the investor. The application forms and the stock invests of the brothers were collected by a nominee of Shri D.K. Shah on May 13, 1996, on

receipt of the interest amount. The drafts were paid by B.K. Finance and the drafts were drawn on Madhavpura Mercantile Co-op. Bank Ltd., Mandvi Branch. The brothers were allotted 19,500 shares each. The principal amount of Rs.1,95,000/- for each application was also repaid by demand drafts. This payment was also done from the account of B.K. Finance from Madhavpura Mercantile Co-op. Bank Ltd. payable at Mandvi Branch, Bombay. Shri Sunil Dalal, I find, has stated that neither he nor his brother received any shares from the Registrar.

4.3.9.2 On account of the fact that these two brothers were instrumental in garnering significant amount of financing for the issue, from Shri Pavri and family, Shri Jatia and Family, Shri Vijay Kumar Jatia and Shri Ramesh Shah and family, Shri Dalal was asked if he had been instrumental in getting the finance for Shri D K Shah alias Munna Bhai, of Arihant Finance Corporation, from other parties also. Shri Dalal stated that he had helped Shri D K Shah alias Munna Bhai for financing worth Rs.5 crores. This amount has been financed by Vinod Kumar Jatia and his family members, R.R. Investments (Ramesh Shah), Vijay Kumar Jatia and the associates of Shri Farookh Pavri. He further stated that Shri D K Shah was a good friend of Shri Pavri and that he has been introduced to Shri D K Shah through Shri Pavri. Shri Pavri is stated to have financed Munna Bhai on earlier occasions also.

4.3.10 I also note that the financiers mentioned above had stated that Dalal brothers had been the persons, who had approached them for financing the issue of ISEL.

4.3.10.1 Shri Jagdish R. Acharya and his family members had applied in the public issue of ISEL. The following family members of Shri Acharya have applied in the said public issue:

- a. Jaichandbhai S. Acharya
- b. Jayaben S. Acharya
- c. Punamchandbhai R. Acharya
- d. Jagdishbhai R. Acharya
- e. Mukeshbhai J. Acharya
- f. Hareshbhai J. Acharya
- g. Shantaben J. Acharya
- h. Sitaben P. Acharya
- i. Sukhdevbhai R. Acharya
- j. Natvarbhai J. Acharya
- k. Shipaben S. Acharya

4.3.10.2 Shri Jagdish Acharya had stated during the investigation that the shares allotted to the applicants at (a) to (f) above have been sold to Raysons Capital Finance Services Pvt. Ltd. (Raysons) @ Rs.11 per share. Incidentally, Raysons is promoted by one of the sons of Shri Acharya and is one of their family company. Shri Acharya stated that since the individual applicants required money, they sold the shares allotted to them to Raysons. Raysons, I find, had further sold these shares to one M/s Stephen Finstock Pvt. Ltd. at different rates. Shri Acharya, had stated to the investigating officials that he had sold the shares on getting a good price. However, I find that the shares allotted to persons mentioned in (g) to (k) above have been sold to Arihant Finance Corporation @ Rs.14/- per share as per the mutual agreement. Those from (a) to (f) had transferred their shares to Stephen Finstock Pvt. Ltd. On receipt of the shares from the Registrars, the applicants mentioned above signed the duly executed transfer deeds and handed over the share certificates and the transfer deeds to Arihant Finance Corporation on May 21, 1996. Here also I find that the pattern of financing was identical as in the other cases. i.e., an amount of Rs.65,000/- per applicant being received for 6,500 shares allotted to each applicant. Further interest is also seen to have been received by each of them. During the investigation, when being asked as to how the deal materialized, Shri Acharya had stated that his son was in touch with the persons in the market, including Shri D K Shah alias Munna Bhai (of Arihant Finance Corporation). The deal for buy back of shares was stated to have been arranged by his son at the pre determined rate of Rs.14/- per share on all the shares allotted to the applicants. It was a mutual contract and no Memorandum of Understanding was signed. However, Shri Acharya denied having financed the public issue of ISEL and stated that it was only after they had applied in the public issue that Munna Bhai had approached them for buying the shares allotted to them at a premium of Rs.4/- per share.

4.3.11 In addition to the above mentioned financiers, I find that there were small investors from Baroda who had stated that their applications and allotment were also part of a finance deal, according to which they had applied through stock invests and a fixed return was assured to them on the amount of amount financed by them, irrespective of the allotment.

4.3.12 In order to investigate into the circumstances surrounding the issuance of pre-dated stock invests by Bank of India, Cumballa Hill branch, Shri Kaku, who was the Chief Manager of Bank of India, Cumballa Hill Branch, Bombay, at the time of issue of these stock invests was asked to depose before the investigating officials. He confirmed that the stock invests issued to the members of Jatia family, Mehta family, Shah family and associates of Shri Farookh Pavri were all pre-dated. On perusal of the bank records, I have seen that the money was debited from the accounts of the holders of these stock invests before the endorsement by the Registrar, thereby making the amount available or the lien fall below the amount for which the stock invests were issued. I find that Shri Kaku stated that the respective parties showed him the basis of allotment and on that basis the proportionate money was allowed to be removed. On the presumption that the bank was having the security of the reduced liability, as per the basis of allotment, he allowed the withdrawal of money. Similarly, it was also confirmed from the United Western Bank, Lower Parel branch, that the stock invests issued by the said branch were pre-dated.

4.3.13 Investigations by SEBI into the post listing trading pattern of the scrip revealed that the scrip had listed on BSE and ASE at around Rs.50/-. The price of the share went up to Rs.64/- in two trading days and fell to Rs.46/- after around 15 trading days. Due to this volatility in price, BSE has imposed a special margin of Rs.15/- on June 18, 1996.

4.3.14 On perusal of the details received from the exchanges, it was seen that, M/s Dev Securities Ltd., member ASE, had dealt actively in the scrip of Infoquest Software Exports Ltd., in the grey market. During the course of investigations, statement of Shri Devendra Shah, proprietor/director of Dev Stock Broking Services Ltd. and Dev Securities Ltd., was recorded. Shri Devendra Shah stated that he has traded in the scrip of Infoquest Software Exports Ltd. on behalf of Dev Securities Ltd. A predominant portion of his dealings in ISEL's shares, approx. 75%, had been on account of one Shri Deep Trivedi of Indore (director, Divya Jyoti Securities Ltd.). Most of the transactions for Shri Deep Trivedi have been done in the grey market (before the listing of the scrip on the stock exchanges). The payments for the shares purchased, were made by demand draft issued from Indore. On being queried regarding the intention of Deep Trivedi in making purchases before the listing of the scrip and whether he was involved in price rigging, Shri

Shah stated that Deep Trivedi was making both purchases and sales in the grey market and had purchased approx. 11 lakhs shares before listing, @ Rs.30 per share or so.

4.4 From the above, I find that ISEL and its directors have indulged in fraudulent activities in connection with the public issue of ISEL.

4.5 I find that the directors of ISEL had on the one hand given funds to various people, who then bought the shares of ISEL in the public issue and on the other hand arranged for financiers who cornered the shares. I also find that once the issue was fully subscribed, the application monies of the financiers were repaid and the shares allotted to them in the issue were taken back.

4.6 I find that money was routed from ISEL to Divya Jyoti Securities Ltd, who in turn passed it on to Rajesh Jhaveri, who was one of the applicants who, along with his family members, had purchased the shares of ISEL, which were returned immediately after allotment. I have also seen that the same method was followed by several other applicants/financiers, at the behest of the company/persons acting for the company.

4.7 This amounts to a violation of Regulation 3 and Regulation 4(a) of SEBI (Prohibition of Fraudulent and Unfair Practices relating to Securities Market) Regulations.

Regulation 3 reads as follows:-

"No person shall buy, sell or otherwise deal in securities in a fraudulent manner."

Regulation 4(a) reads as under:-

"No person shall

(a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;"

4.8 With respect to the contentions raised by the company and its directors vide their reply dated July 31, 2003, let me deal with each of the issues hereunder:-

a) The adjudication proceedings which have been concluded as referred by the parties, are separate from the present proceedings. The adjudication proceedings were initiated for the alleged violation of SAST Regulations, as per the SEBI Act, 1992 and SAST Regulations; whereas in the instant case, the proceedings are pursuant to the investigation and findings regarding violation of FUTP Regulations.

b) Regarding the investigation report, there is no statutory mandate on SEBI to communicate the investigation report to the persons concerned. In fact, I find that the findings of the investigation were intimated as the annexure to the show cause notice.

c) Same cause of action had resulted in the violation of two separate regulations and since the recourse is separately laid down under the statutes, separate proceedings were initiated.

d) It is a wrong presumption by the parties that since no objection was raised during the finalization of the basis of allotment, the regulator cannot thereafter point out irregularities. In fact, the findings of violation communicated vide the show cause notice are pursuant to a detailed investigation. The investigation had revealed the fraudulent means undertaken in order to get the issue fully subscribed and sail through successfully.

e) Regarding the assistance taken from the financiers, brokers, etc, it is established from the details obtained during the investigation that the entire manipulation was done by various players in the market which included the promoters of the company, brokers who are registered intermediaries, investors who had invested purely for earning the interest on the amount invested and the financiers, who specifically managed to link the promoters and the investors in order to complete the manipulative roles of each.

4.9 Therefore, in view of the above, I find that the ISEL and its directors have committed violation of Regulations 3 and 4(a) of SEBI (Fraudulent and Unfair Trade Practices) Regulations, 1995.

4.10 However, I find that the service of notice is incomplete against the directors, Shri Shailendra Jhalani and Shri Subhash Krishna Chitale of ISEL. In the reply sent by the company, it has been mentioned that Shri Shailendra Jhalani and Shri Subhash Krishna Chitale, ceased to be directors of the company since 3 ½ and 6 years back respectively. Under the circumstances, it is understood that the charges against them in the capacity of directors of ISEL is not brought to their notice and an opportunity has not been afforded to them for replying to the charges or explaining their case. Separate show cause notices and separate proceedings against Shri Shailendra Jhalani and Shri Subhash Krishna Chitale are underway.

5.0 ORDER

5.1 In exercise of the powers conferred upon me in terms of Section 19, read with Section 11(4)(b) of SEBI Act, 1992, I hereby prohibit Infoquest Software and Exports Ltd. from accessing the securities market and its director, Shri Sanjay Jhalani, from dealing in securities, for a period of 2 (two) years.

5.2 This order shall come into force with immediate effect.

DATE : July 09, 2004
PLACE : MUMBAI

A.K.BATRA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA